



Wisconsin Elections Commission

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MEMORANDUM

TO: Wisconsin Municipal Clerks
City of Milwaukee Election Commission
Wisconsin County Clerks
Milwaukee County Election Commission

FROM: Meagan Wolfe
Administrator

DATE: April 6, 2020

SUBJECT: **URGENT -- Wisconsin Supreme Court Orders Election Day to Continue and U.S. Supreme Court Alters Ballot Receipt Deadline; Tallying and Reporting Results Still Prohibited Until April 13**

This memorandum summarizes three court decisions which were issued today related to Election Day.

First, the Wisconsin Supreme Court enjoined the Governor's Executive Order which had postponed the election, meaning that in-person voting will occur at the polls. County and municipal clerks and election inspectors should continue their election preparations.

Second, the U.S. Supreme Court issued a ruling changing the part of Judge Conley's decision which stated that ballots would be counted if received by April 13 regardless of any postmark or if they were hand-delivered after April 7. The Supreme Court ruled that ballots are to be counted only if they are hand-delivered by 8 p.m. or if they are mailed with a postmark on or before April 7 and are received by 4 p.m. on April 13.

Third, the Eastern District of Wisconsin federal court issued a ruling which denied a separate request to postpone the election.

The effect of these decisions is as follows:

- 1) Voting is to occur at polling places on Election Day, April 7. Absent any subsequent court order, voting at polling places shall continue as planned even if a municipality receives an order from a public health official to terminate all in-person voting. If any such order is received, the municipal clerk must immediately contact the Elections Commission and the County Clerk to discuss next steps. While municipal clerks have authority to consolidate polling places, and polling places may be moved on Election

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Day in the event of an emergency, Wisconsin Statutes require that municipalities conduct voting in at least one polling place. Wis. Stats. §§ 5.15, 7.37.

- 2) Ballots that are hand-delivered after 8 p.m. or that are postmarked after April 7 are not counted. Ballots with a postmark on or before April 7 and received by 4 p.m. on April 13 are counted.
- 3) The U.S. Supreme Court decision also did not alter the provision in Judge Conley's amended order which prohibits the reporting of results until April 13. In order to ensure consistent compliance with that order, the number of ballots will be counted on Election Night but votes will not be counted until April 13.

The U.S. Supreme Court decision did not alter the Election Night Procedures guidance posted at this link: <https://elections.wi.gov/index.php/node/6819>. If you have not done so already, please review that communication and provide it to election inspectors. The Commission plans to post additional guidance regarding procedures for April 13 later in the week.

If you have questions regarding this communication, please contact the Help Desk at 608-261-2028 or elections@wi.gov.